FILED

08 JAN 17 PM 3:21

CLERK U.S. DISTRICT COURT

BY: DEPUTY

WILLIAM P. SHANNAHAN, ESQ.
California State Bar Number 33226
1200 Prospect Street, Suite 425
La Jolla, California 92037
Telephone Number: (858) 454-4424
Facsimile Number: (858) 551-2161

'08 CV 0100 J BLM

Attorney for Plaintiff

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LEEDS LP, A CALIFORNIA LIMITED PARTNERSHIP Plaintiff, v. United States of America Defendants.	**Case No.** **COMPLAINT FOR RECOVERY OF WRONGFUL LEVY**

Comes now Leeds LP, a California Limited Partnership by and through its attorneys of record, hereby alleges and avers as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1346(e) and 26 U.S.C.A. § 7426.

2. Venue is proper under 28 U.S.C.A. §1402(c).

BASIS OF COMPLAINT

3. Plaintiff is a California Limited Partnership having its principal place of business in San

Diego, California within the Southern District of California.

4. Defendant is the United States of America, acting by and through its authorized agents.

5. Don Ballantyne and Susanne C. Ballantyne (Ballantynes) are citizens of the Untied States and residents of the state of California residing in San Diego, California.

6. Plaintiff was properly formed on June 23, 1995 and has continuously operated as a valid California Limited Partnership separate and distinct from its partners.

7. Plaintiff is informed and believes and therefore alleges that the Ballantynes are not partners in plaintiff, and that the property illegally and unlawfully seized by lien and levy is owned by the Plaintiff.

8. Plaintiff is informed and believes and therefore alleges that the Ballantynes have no ownership interest in the property liened, levied and seized by the Defendant.

9. On or about July 17, 2006, Defendant illegally arbitrarily and unlawfully issued and recorded a lien against Plaintiff's property interest located at 1280 Fourth Avenue, San Diego, California, 92101 for income tax liability of the Ballantynes for the calendar years 1985, 1986, 1990, and 1997 in the amount of $5,212,494.62. A copy of the notice of federal tax lien recorded on July 17, 2006 in the San Diego County Recorder's Office is attached hereto as Exhibit A and incorporated by reference.

10. Defendant erroneously contended that the Plaintiff is the nominee/alter ego of Susanne C. Ballantyne to justify its seizure of Plaintiff's property. Such arbitrary, unreasonable, and capricious action is illegal and unlawful.

11. On March 21, 2007, the Plaintiff filed an administrative request for return of the

unlawful and illegal seizure of Plaintiff's property with the District Director in Laguna Niguel, California 92677, pursuant to applicable statute and regulation under Title 26 and within the Procedural requirement of 26 U.S.C.A. §6343(b).

12. Without affording the Plaintiff's administrative request, pursuant to 26 U.S.C.A. §§ 6630 and 6343(b), the Defendant has illegally, arbitrarily, and unlawfully refused to act on Plaintiff's administrative request and denied the return of Plaintiff's property.

13. Plaintiff's administrative request for return of Plaintiff's property alleged that the Ballantynes held no interest in the Plaintiff or the Plaintiff's property at 1280 Fourth Avenue, San Diego, California 92101 and that the Plaintiff is the lawful owner of the property.

14. The failure of Defendant to grant Plaintiff a hearing and failure to consider the administrative request is an abuse of discretion by the Defendant.

15. This complaint is timely filed consistent with the procedural requirement of 26 U.S.C.A. §6532.

16. The actions of Defendant as described above were not substantively justified.

PRAYER FOR RELIEF

Wherefore Plaintiff prays that the Court grant the following relief:

1. The Defendant return Plaintiff's property.
2. The Defendant pay any damages arising from Defendant's wrongful actions.
3. The Defendant be awarded attorney's fees and costs; and
4. Plaintiff receives such other relief as determined by the Court.

Date 16th day of January 2008

Respectfully submitted,

William P. Shannahan, Attorney for Plaintiff

Leeds LP, a California Limited Partnership